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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,165	07/21/2003	Tiet Pham	100.554US01	6359
34206	7590	06/09/2008	EXAMINER	
FOGG & POWERS LLC 10 SOUTH FIFTH STREET SUITE 1000 MINNEAPOLIS, MN 55402			TO, JENNIFER N	
			ART UNIT	PAPER NUMBER
			2195	
			NOTIFICATION DATE	DELIVERY MODE
			06/09/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@fogglaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/624,165	<b>Applicant(s)</b> PHAM, TIET	
	<b>Examiner</b> JENNIFER N. TO	<b>Art Unit</b> 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. In view of the appeal brief filed on 03/28/2008, PROSECUTION IS HEREBY REOPENED. The final office action mailed on 10/30/07 has been withdrawn, but a new final rejection is set forth below based on the amendment filed on 8/29/07 that necessitate the new ground of rejection and the new found reference Dailey (U.S. Publication No. 2003/0217093).

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

2. Claims 1-23 are pending for examination.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by

Dailey (U.S. Publication No. 2003/0217093).

5. As per claim 1, Dailey teaches the invention as claim including a method of scheduling a plurality of periodic events, wherein each periodic event has an associated periodic interval of time and an associated set of services (abstract), the method comprising:

determining when one of the plurality of periodic events occurs (abstract, paragraphs [0005]-[0007], [0024], detecting when one of the periodic event occurs); and

distributing the execution of the services associated with that periodic event throughout a next periodic interval of time associated with that periodic event following the occurrence of that periodic event (abstract; figs. 4, paragraph [0034], fig. 4 shown that for each period interrupt, it is associated with a single task, the task for each periodic interrupt should be spread throughout the interval such that it does not occur at the same time. If the periodic interrupt is associated with a plurality of tasks, the plurality of tasks should be spread throughout the interval as well; paragraph [0034]) shown that a trigger can be associated with a set of tasks).

6. As per claim 2, Dailey teaches that wherein one of the periodic events occurs when a periodic interval of time associated with that periodic event elapses (paragraphs [0009], [0024]).

7. As per claim 3, Dailey teaches that wherein distributing the execution of the services includes executing successive services on successive clock ticks following a clock tick on which that periodic event occurred (paragraphs [0027]-[0031]).

8. As per claim 4, Dailey teaches that wherein the execution of each service is either enabled or disabled (abstract).

9. As per claim 5, Dailey teaches that wherein the execution of each service of the services is enable or disabled in order to implement one of a one-shot mode, a burst mode, and a continuous mode of service execution (fig. 4; paragraphs [0004], [0009]).

10. As per claim 6, Dailey further teaches determining, for each of the set of services associated with that periodic event, if that service is enabled for execution (abstract; paragraph [0034]).

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11. As per claim 7, Dailey teaches that wherein distributing the execution of the services associated with that periodic event during the next periodic interval of time includes distributing the execution of the enabled services associated with that periodic event during the next periodic interval of time associated with that periodic event following the occurrence of that periodic event (paragraphs [0027]-[0031]).

12. As per claim 8, Dailey teaches that wherein distributing the execution of the enabled services includes executing successive enabled services on successive clock ticks following the clock tick on which that periodic event occurred (paragraphs [0027]-[0031]).

13. As per claim 9, it is rejected for the same reason as claim 1 above. In addition, Dailey teaches a tick generator that generates interrupts in response to clock ticks (paragraphs [0007]-[0008], and an interrupt handler that receives the interrupts from the tick generator and executes the periodic event scheduler in response to the interrupt (paragraph [0024]).

14. As per claims 10-23, they are rejected for the same reason as claims 1-9 above.

***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer N. To whose telephone number is (571) 272-7212. The examiner can normally be reached on M-T 6AM- 3:30 PM, F 6AM- 2:30 PM.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/  
Supervisory Patent Examiner, Art Unit 2195

Jennifer N. To  
Examiner  
Art Unit 2195